**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**ARBITRATION PETITION NO.55 OF 2006**

M/s K.A. Pillai and Co. ...Petitioners

v/s

Union of India and ors. ...Respondents

Mr U.S. Samudrala for Petitioners.

Mr Suresh Kumar for Respondents.

**CORAM : D.K. DESHMUKH J.**

**DATE : 17TH APRIL 2006.**

**P.C.** :-

1. By this petition, the petitioners challenge the award made by the Arbitral Tribunal against claim No.1 and claim No.3. So far as the award made under claim No.1 is concerned, the Arbitral Tribunal has held that the respondents are entitled to retain an amount of Rs.2,59,800/- towards payment of royalty to be made to the State Government. The claim of the petitioners as is apparent from the statement claim is that they paid to the State Government royalty in excess of Rs.14,00,000/- and they were seeking compensation or reimbursement of the amount from the respondents. The respondents, in reply, have pointed out that the petitioners did not make payment of royalty to the Collector, Amravati. Therefore, from time to time, orders were made asking the respondents to get the royalty certificate from the petitioners which they did not procure. Ultimately, the respondents paid the royalty to the State Government and therefore, that amount was retained by the respondents from the bills payable to the petitioners. The amount which the Arbitrators have permitted the respondents to retain is the amount which is actually paid by the respondents to the Collector as royalty. Therefore, no fault can be found with the award made. That the Arbitral Tribnal

ascertained the actual amount paid as royalty after the proceedings were initiated, in my opinion, will not make any difference because it is not in dispute before me that this amount was actually paid by the respondents to the State Government. So far as the award made against claim No.3 is concerned, the Arbitral Tribunal has held that though the petitioners were claiming compensation for underutilisation of machinery, the machinery was not underutilised, the contractor used the same machinery for work on adjoining site. Perusal of the petition shows that there is no challenge to this finding recorded by the Arbitrators. There is no substance in the petition. Petition is rejected.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.

---